

## § 142.22

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the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall pay duties at the over-quota rate.

(2) *Absolute.* At the discretion of the port director, perishable merchandise of a class approved by Customs Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the port director, until an entry summary is properly presented pursuant to §132.1 of this chapter. A proper entry summary must be presented for merchandise so released within the time specified in §142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has properly presented an entry summary, he may either present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

(f) *Release from warehouse followed by warehouse withdrawal for consumption.* Merchandise may be released from warehouse under a special permit:

(1) At the discretion of the port director when:

(i) The warehouse is located a considerable distance from the customhouse and actual release of the merchandise from the warehouse may not be effected within the next full business day after the day of the payment of duty, and

(ii) The port has sufficient manpower to permit such practice;

(2) The importer shall have on file a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter; and

(3) The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

(g) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), and (f) of this section provided a bond on Customs Form 301, containing the bond

conditions set forth in §113.62 of this chapter is on file.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 81-260, 46 FR 49842, Oct. 8, 1981; T.D. 84-213, 49 FR 41185, Oct. 19, 1984; T.D. 89-104, 54 FR 50499, Dec. 7, 1989]

### § 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in §142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in §142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under §142.21 of this part shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached; an entry summary for consumption without estimated duties attached, if entry/entry summary information and a valid scheduled statement date (pursuant to §24.25 of this chapter) have successfully been received by Customs via the Automated Broker Interface; an entry summary for warehouse; or an entry summary for entry temporarily under bond, which may be filed in any of the circumstances under §142.21 of this part except for merchandise released from warehouse under §142.21(f) of this part;

(2) A withdrawal for consumption, with estimated duties attached, which shall be filed only for merchandise released from warehouse under §142.21(f) of this part;

(3) An entry for transportation and exportation, immediate transportation

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without appraisement, or direct exportation, which shall be filed in those circumstances under §142.21(b) and (e)(2) of this part; or entry for transportation and exportation, or direct exportation, which shall be filed in the circumstances under §142.28 of this part or

(4) An application to destroy, which shall be filed in those circumstances under §§142.21(b) and (e)(2), and §142.28 of this part.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 81-260, 46 FR 49842, Oct. 8, 1981; T.D. 89-104, 54 FR 50499, Dec. 7, 1989]

### § 142.23 Time limit for filing documentation after release.

The applicable documentation described in §142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery or, for quota class merchandise within the quota period, whichever expires first.

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979; T.D. 80-26, 45 FR 3901, Jan. 21, 1980; T.D. 98-34, 63 FR 19399, Apr. 20, 1998]

### § 142.24 Special permit.

(a) *Conditions for issuance.* At the discretion of the port director, a special permit for immediate delivery may be issued on Customs Form 3461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 84-213, 49 FR 41185, Oct. 19, 1984]

### § 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of port director.* The port director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in §142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidated damages issued under §142.27 for failure to file the applicable Customs documentation set forth in §142.22(b) timely, or a claim for liquidated damages issued under the basic importation and entry bond for failure to deposit estimated duties, taxes and charges timely, as provided in such bond. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(3) Has repeatedly delivered documentation required by §142.22(b) which is incomplete or which contains erroneous information.

(4) Is substantially or habitually delinquent in the payment of Customs bills. See §142.26.

(b) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 93-37, 58 FR 30984, May 28, 1993; T.D. 95-77, 60 FR 50020, Sept. 27, 1995]

### § 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the director of the port in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the